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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/529,281

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Seishi Miura

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

MACCHIAROLO, PETER J

ART UNIT

PAPER NUMBER

2879

MAIL DATE

DELIVERY MODE

01/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,281

Applicant(s)

MIURA ET AL.

Examiner

Peter J. Macchiarolo

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application on 10/03/2007. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/12/2007 has been entered. However, pending claims 18-27 are not allowable as explained below. An action on the RCE follows.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Furthermore, there are numerous terms which lack proper antecedent basis, making the claims very unclear. For example, claim 18 recites "a first light emitting region" at least two times in the claim, and appears to be directed to two different elements, since the first "a light

emitting region” is of the “electroluminescence device” while the second “first light emitting region” appears to belong to “the first electroluminescent device.”

Furthermore, what is the difference between “the first electroluminescence device” and “the first organic electroluminescence device?” Or are these two different elements intended to refer to one common element? Such questions are applied to “the second electroluminescence device” and “the second organic electroluminescence device.”

Where a claim directed to a device can be read to include the same element twice, it is considered indefinite. *Ex parte Kristensen*, 10 USPQ2d 1701 (Bd. Pat. App. & Inter. 1989). See MPEP § 2173.05(o).

Furthermore, the claim recites “each of the organic electroluminescence devices having at least...a first and second light emitting region of the electroluminescence device.” The Examiner cannot ascertain the structural characteristics of this limitation. Does this mean that each organic electroluminescence device has a first and second light emitting region? And what is the electroluminescence device? Is that the same as the organic electroluminescence device? The Examiner appreciates page 6 of Applicant's remarks filed 09/12/2007 that “each device has only one light emitting region and the claims were amended to confirm that understanding,” however the claims do not appear to have been so amended.

Also, claim 18 recites “the second light emitting region of the second electroluminescence device emits light of a color having a *short* wavelength is located at a position closer to the first electrode in a thickness direction of *the electroluminescence layer* than *the first light emitting region*.” 1) “having a short wavelength” is a relative term of degree. The term “short” is not defined by the claim, the specification does not provide a standard for

ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. 2) "the electroluminescence layer" is referring to which EL layer? The first or second? 3) The first light emitting region is referring to which first light emitting region? The region in the first organic electroluminescence device or the region in the second electroluminescence device? The Examiner gleans from the claims that the multi-color light emitting device has a first and a second organic electroluminescence device, wherein each of these devices further has a first and second light emitting region. However, this is not shown in the figures.

The claims are so unclear, they preclude a reasonable search for prior art.

The above are specific examples of why claim 18 fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner notes that the dependent claims also contain similar issues and will not be repeated here. Applicant is advised to amend all of the claims to conform with the standards as recited in 35 USC 112 2nd paragraph.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Macchiarolo whose telephone number is (571) 272-2375. The examiner can normally be reached on 8:30 - 5:00, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar Patel can be reached on (571) 272-2475. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

By 
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(571) 272-2375